



## BOARD OF PUBLIC WORKS & SAFETY SEPTEMBER 8, 2005 MINUTES

Mayor Charles Henderson called the meeting to order at 8:30 a.m.

<b>PRESENT:</b>	Board members Warren Beville, Mayor Henderson; Clerk-Treasurer Jeannine Myers; City Attorney Shawna Koons-Davis; and Director of Engineering Paul Peoni. Board member Kevin Hoover was not in attendance.
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Mr. Beville moved to accept the minutes of August 18<sup>th</sup> as submitted. Second by the Mayor. Vote: Ayes.

Nancy Rowand of 1244 Blakely Drive came forward to request permission to encroach a utility and drainage easement in Crooked Bend Subdivision, Section 4, Lot 143B. Mayor Henderson moved to grant the request, with the understanding that the deck is placed in the easement at the owner's risk and if it has to come out to accommodate the utilities, it is at the owner's expense. Second by Mr. Beville. Vote: Ayes.

Concerning Wakefield West, Section 3, Kevin McGinnis requested a 1/3 reduction of the Sewer Availability Fee. Mayor Henderson moved to grant the request after research by the Engineering Department, Mr. McGinnis and the utility accountant to verify that the sanitary sewer line is the one under discussion for the Master Plan. Second by Mr. Beville. Mr. McGinnis is asking for the 1/3 that the developer pays. Vote: Ayes.

James Shinneman of Weihe Engineering represented Ray Skillman Speed Shop to ask for acceptance of performance bonds, acceptance and execution of the sidewalk easement along U.S. 31, acceptance and execution of the Grant of Limited Drainage Easement, acceptance of the Inspection & Testing Agreements and an open cut on Apryl Drive. The amounts and improvements on the performance bonds are correct and approved by the Engineering Department. The Law Department has reviewed the performance bonds for form and finds them to be acceptable. The legal descriptions and the graphic exhibits for the easements have been reviewed and approved by the Engineering Department and the easement language has been approved by the Law Department. Mayor Henderson moved to:

- 1) Accept performance bond #8791312 in the amount of \$134,279.64 from Fidelity and Deposit Company of Maryland for the installation of the dirtwork and storm sewers at the Ray Skillman site.
- 2) Accept performance bond #8791313 in the amount of \$25,061.14 from Fidelity and Deposit Company of Maryland for the installation of the erosion control at the Ray Skillman site.
- 3) Accept performance bond #8791314 in the amount of \$34,897.61 from Fidelity and Deposit Company of Maryland for the installation of the sanitary sewers at the Ray Skillman site.
- 4) Accept performance bond #8971315 in the amount of \$1,067.61 from Fidelity and Deposit Company of Maryland for the installation of the street improvements in the public right-of-way at the Ray Skillman site.
- 5) Accept performance bond #8791316 in the amount of \$7,260 from Fidelity and Deposit Company of Maryland for the installation of the sidewalks at the Ray Skillman site.
- 6) Accept performance bond #8791317 in the amount of \$453.20 from Fidelity and Deposit Company of Maryland for the installation of the signs and monuments at the Ray Skillman site.
- 7) Accept Inspection & Testing Agreement for all improvements except sanitary sewer and ratify the acceptance of the 50% upfront fee.
- 8) Accept Inspection & Testing Agreement for sanitary sewers and ratify the acceptance of the 50% upfront fee.
- 9) Accept and execute one (1) Grant of Limited Drainage Easement.
- 10) Accept and execute one (1) Public Sidewalk Easement, all subject to:
  - a) Receipt of ORIGINAL Inspection & Testing Agreements signed in ink.

Second by Mr. Beville. Vote: Ayes.

As to the open cut, the Director of Operations indicated he would like to discuss this with the Engineering Department and possibly Weihe Engineering also. Mr. Peoni noted that they have already been told that if the cut is approved it will be put back with flowable fill; there will be no stone allowed. Mayor Henderson moved to grant the open cut on Apryl Drive, with the requirement that Mr. Peoni meets with Skillman's engineer to come to an agreement on how that is to be done and how it will be replaced. Second by Mr. Beville. Vote: Ayes.

Kevin Austin of Davis Homes came forward regarding encroachment of a drainage and utility easement for Lot 49, Trails at Woodfield, Section 1 (1617 Old Thicket Court). They are asking permission to leave a retaining wall in place. Mr. Peoni noted that the original plot plan indicated a 20' drainage and utility easement in the rear yard. However, he said that even if the easement were 20' it would still encroach about 2.3 feet. The easement is to be a 25' drainage and utility easement, Mr. Peoni explained. The wall was initially put in because of a grading issue. Letters have been received from the utilities, but Mr. Peoni had not had an opportunity to see them. As he glanced through them, he did not see letters from Indiana American Water or the Sanitation Department. Mr. Beville moved to grant the request to allow encroachment of the utility and drainage easement for 1617 Old Thicket Court, Lot 49 Trails at Woodfield, based on further review by the Engineering Department, with the understanding that if the wall has to be removed it would be at their expense and replaced at their expense and with proper documentation from all utility companies. Second by Mayor Henderson. Vote: Ayes. Davis Homes is to notify the homeowner of the Board's decision.

Scott Tucker of Maurer Surveying next asked for approval of construction plans for Shepherds Grove, Section 2. Mr. Peoni said that requested revisions to the plans have been made. Mr. Beville moved to grant the approval of the construction plans for Shepherds Grove, Section 2. Second by the Mayor. Vote: Ayes.

John Myers, Code Enforcement Officer, reported that violations have been abated at the following locations:

626 Park Drive	727 Downing Drive
21 West County Line Road	226 Yorktown Road
Vacant Lot 300 Block of Fry Road	1950 East Main Street

Mr. Myers asked for a continuance on the property at 612 West Smith Valley Road, which has an above ground swimming pool. He has a new address for the owner. The Board of Health has been to the site and taken care of the matter. Mr. Myers also asked for a continuance for the property at 807 West Orchard Lane, which has an in ground swimming pool. There is a new mortgage company in this case. Mr. Beville moved to grant the request for continuance on these two violations (612 W. Smith Valley Road and 807 W. Orchard) to the September 22<sup>nd</sup> meeting. Second by Mayor Henderson.

From the audience Carol Spiller and Margaret Meinken of 814 Briarwood Drive, 20-year residents, described a problem with water coming from Redbud that ends up on their property. The storm sewer put in three years ago on the northeast side of Howard Road does nothing, they said. Work this year on the west side has not helped either. Ms. Spiller said the storm sewer on Howard Road only went so far. Mr. Gabehart confirmed that the sanitation department crew is working with other departments and did have to pull out because of some sanitary sewer work. He assured the ladies that they will bring resolution to the drainage issue as quickly as possible. Mayor Henderson also told the ladies that he is aware of the problem, apologized that resolution has taken this long, and said the crew will be back in quickly.

Street Superintendent Greg Owens reported that he had advertised, as authorized by the Board, for a roller/compactor for the Street Department and received no bids. He asked permission to do a special purchase. Counsel mentioned this is under Indiana Code. Mr. Beville moved to authorize the special purchase in accordance with the Indiana statute. Mr. Owens previously had quotes, with the low being \$81,000. Second by the Mayor. Vote: Ayes. Mayor Henderson mentioned he had seen savings by other communities using an online reverse auction. He will check into this and get back to Mr. Owens.

On her Status of Tasks, Ms. Koons-Davis first discussed the approval of Professional Services Agreements with Bingham McHale and H.J. Umbaugh for legal and financial services regarding the bond issue for the proposed purchase of fire equipment. The proposed fees for the services of H.J. Umbaugh total \$18,000, which is likely to be paid from the proceeds of a bond issue. There is an additional fee of \$1,750 per year for continuing disclosure services. The City Attorney has prepared a draft contract for H.J. Umbaugh and forwarded it for review and consideration. She also provided a copy of that agreement for the Board's review. Attorney Sue Beesley of Bingham McHale Law Firm has not yet submitted an Employment Memorandum to the City Attorney for her use in preparing a formal

Professional Services Agreement; therefore, the City Attorney has no information regarding the fees. The firm is to be hired to provide bond counsel services regarding the proposed bond issue. There is some urgency in hiring for these services, per the City Attorney's Status, as the ordinance for the issuance of the bonds has been introduced to the Common Council and is under consideration. At the City Attorney's recommendation, Mr. Beville moved to hire H.J. Umbaugh and Associates to provide financial and accounting services and to hire Bingham McHale Law Firm to provide bond counsel services, regarding the financing of proposed fire equipment purchase through the issuance of general obligation bonds, subject to terms and conditions as approved by the Mayor and to authorize the Mayor to execute the Professional Services Agreements with H.J. Umbaugh and Associates and Bingham McHale in the Board's behalf. Second by the Mayor. Vote: Ayes.

Ms. Koons-Davis moved on to discuss Board of Works Resolution No. 05-03 "A Resolution Adopting Tables of Tree Species Suitable for Planting in Public Right-of-Way". She and Mr. Peoni met with Planning Director Ed Ferguson regarding the landscape ordinance. They have put together a table of acceptable trees, ornamental in nature, whose root systems go down and not out, that would be all right to plant by curbs or sidewalks. The resolution still requires the person desiring to plant tree(s) to receive permission from the board to plant the tree(s) and approval on the location. Mayor Henderson moved to adopt BOW Resolution No. 05-03 "A Resolution Adopting Tables of Tree Species Suitable for Planting in Public Right-of-Way". Second by Mr. Beville. Vote: Ayes.

The City Attorney next handed out documentation from Doug Wagner for University Park LLC regarding an assignment of the SAF Credit Agreement to their lender. She has approved the form of the Consent to the Collateral Assignment. Mayor Henderson moved to approve the Consent to Collateral Assignment, with University Park LLC, as presented by the City Attorney. Second by Mr. Beville. Vote: Ayes.

Ms. Koons-Davis next presented a letter from Attorney Stephen Huddleston regarding Fred C. Johnson, 53 S. Madison Avenue, asking to connect to the sewer. They are asking the City to waive the hook-on fees as apparently sewer bills were paid between 1986 and 1992, not knowing they were on a septic system. Apparently they did not ask for a refund in 1992 but now they would like a credit toward the hook-on fees. Counsel indicated that her research shows the statute of limitations is ten years. Mayor Henderson stated that he responded to the letter from Mr. Huddleston requesting documentation on what Mr. Johnson had paid to the sewer utility. Mr. Beville moved to deny the request to waive the hook-on fee. Second by the Mayor. Records show the owners as Fred C. Johnson and C. Fred Johnson, noted the City Attorney. Vote: Ayes. The Board will address the refund later.

On his Status of Tasks Mr. Peoni first brought up the request from Homecoming at University Park, Section 8 to accept their performance bond on erosion control. The amount and improvement shown on the bond is correct. The City Attorney needs to review for form. Mr. Beville moved to:

- 1) Accept performance bond #5018005 in the amount of \$43,298 from Bond Safeguard Insurance Company for the installation of the erosion control at University Park, Section 8, subject to:
  - a) City Attorney review and approval of the bond form.

Second by the Mayor. Vote: Ayes.

For Greenwood Fire Station #4, Mr. Peoni stated that Chief Dhondt is asking for acceptance of an offsite plat-over drainage easement. This easement is for the offsite detention that is required for the new fire station and will also serve as a detention area for future development by JMS Investments, LLC. The legal description and graphic exhibit have been approved by the Engineering Department. The form of the easement has been prepared and approved by the Law Department. Mr. Beville moved to:

- 1) Accept an offsite plat-over drainage easement from JMS Investments, LLC for the above referenced project.

Second by Mayor Henderson. Vote: Ayes.

Mr. Peoni noted that the RE/MAX Commercial Site developers are asking for acceptance of performance guarantees and their Inspection & Testing Agreement. The amounts and improvements shown on the certificates of deposit (CD's) are correct. Mayor Henderson moved to:

- 1) Accept performance CD #9060217177 in the amount of \$28,405.14 from National City Bank of Indiana for the installation of the dirtwork and storm sewers at the RE/MAX Commercial Site.
- 2) Accept performance CD #7635215438 in the amount of \$3,929.04 from National City Bank of Indiana for the installation of the erosion control at the RE/MAX Commercial Site.

- 3) Accept performance CD #2575216411 in the amount of \$2,978.53 from National City Bank of Indiana for the installation of the street and sidewalk improvements in the public right-of-way at the RE/MAX Commercial Site.
- 4) Accept the Inspection & Testing Agreement for all improvements except sanitary sewer and ratify the acceptance of the 50% upfront fee for the RE/MAX Commercial Site, all based upon:

a) Verification of the receipt of the ORIGINAL CD's by the Clerk-Treasurer.

Second by Mr. Beville. Vote: Ayes.

Next Mr. Peoni stated that Stout's RV Parking Lot is presenting performance bonds for improvements at their site on Sheek Road. The amounts and improvements shown on the bonds are correct. Mr. Beville moved to:

- 1) Accept performance bond #716509S in the amount of \$23,000 from Developers Surety and Indemnity Company for the installation of the street improvements in the public right-of-way at the Stouts RV Parking Lot Site.
- 2) Accept performance bond #716508S in the amount of \$7,700 from Developers Surety and Indemnity Company for the installation of the sidewalks in the public right-of-way at the Stouts RV Parking Lot Site.
- 3) Accept performance bond #716507S in the amount of \$424,000 from Developers Surety and Indemnity Company for the installation of the dirtwork, storm sewers and erosion control at the Stouts RV Parking Lot Site, contingent upon:
  - a) City Attorney review and approval of the bond form.

Second by the Mayor. Vote: Ayes.

Mr. Peoni next presented a request for a single-parcel Sewer Service Agreement for Don and Pat Carney at Southwind Estates, Section 1, Lot 16 (3133 Lake Court). The Sanitation Superintendent has no objection, noted Mr. Peoni. Mr. Beville moved to direct staff to prepare a single parcel Sewer Service Agreement for 3133 Lake Court and to authorize the Mayor to sign on the Board's behalf. Second by Mayor Henderson. Vote: Ayes.

Mr. Beville moved to approve the claims as presented through September 8<sup>th</sup>. Second by Mayor Henderson. Vote: Ayes.

With no further business, the meeting adjourned at 9:30 a.m.